

#### **Section 4. Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted**

*NOTE: "A copy of any patent, publication or other information listed in an information disclosure statement is not required to be provided if it was previously cited by or submitted to the Office in a prior application, provided that the prior application is properly identified in the statement and relied upon for an earlier filing date under 35 U.S.C. 120." 37 C.F.R. section 1.98(d).*

**WARNING:** *"This exception to the requirement for copies of information does not apply to information which was cited in an international application under the Patent Cooperation Treaty." Notice of April 20, 1992 (1138 O.G. 37-41, 38).*

**WARNING:** *"Information which is cited or submitted to the Office in the parent application of a file wrapper continuing application under 37 C.F.R. section 1.62 will be part of the file before the examiner and need not be resubmitted in the continuing application. Likewise, the examiner will consider information cited or submitted to the Office in a parent application when examining a continuing application and thus this information need not be resubmitted unless applicant desires the information to be printed on the patent." Notice of April 20, 1992 (1138 O.G. 37-41, 37).*

**WARNING:** *While a copy of a non-English language item of information need not be submitted, if it was previously submitted to, or cited by, the Office in a prior application, provided it is properly identified in this statement and this application relies on that earlier filing date under 35 U.S.C. 120, nevertheless, the requirement in section 1.98(a)(3) for a concise explanation of non-English language information would not be satisfied by a statement that a reference was cited in the prosecution of a parent application. The concise explanation must explain the relevance, as presently understood by the person designated in section 1.56(c) most knowledgeable about the content of the information. Notice of January 9, 1992, 1135 O.G. 13-25, at 20.*

This application relies, under 35 U.S.C. section 120, on the earlier filing date of prior application SN.: 10/160,667, filed on May 28, 2002.

The following references were submitted to, and/or cited by, the Office in the prior application(s) and, therefore, are not required to be provided in this application:

**VF – WA**

## Section 6. Copies of Listed Information Items Accompanying This Statement

*NOTE: 37 C.F.R. section 1.98(a)(2) requires that any information disclosure statement filed under section 1.97 shall include: "A legible copy of: (i) Each U.S. and foreign patent; (ii) Each publication or that portion which caused it to be listed; and (iii) All other information or that portion which caused it to be listed, except that no copy of a U.S. patent application need be included . . ."*

*NOTE: The wording in section 1.98(a)(2)(iii) makes it clear that the requirement to submit a copy of each item of information listed in an information disclosure statement does not apply to the citation of a U.S. patent application. Notice of January 9, 1992, 1135 O.G. 13-25, at 14.*

Legible copies of all items listed in Forms PTO/SB/08A and 08B (substitute for Form PTO-1449) accompany this information statement.

*(complete the following, if applicable)*

☒ Exception(s) to above:

**U.S. patent citations are not included pursuant to the United State Patent and Trademarks Office's September 21, 2004 waiver of the copy requirement in 37 CFR 1.98 for cited pending U.S. patent citations when the patent citations are available in the USPTO's IFW system.**

☒ Items in prior application, from which an earlier filing date is claimed for this application, as identified in Section 4.

☐ Cumulative patents or publications identified in Section 5.

## Section 8. Translation(s) of Non-English Language Documents

NOTE: *"If a written English language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in section 1.56(c), a copy of the translation shall accompany the statement." 37 C.F.R. section 1.98(c).*

NOTE: *"The Office does not intend to require translations unless they have been reduced to writing and are actually translations of what is contained in the non-English language information. Applicants should note, however, that most examiners do not have the ability to understand information which is not in English and that the Office will not routinely translate information submitted in a non-English language. The examiner will consider the information insofar as it is understood on its face, e.g., drawings, chemical formulas, English language abstracts, but will not have the information translated unless it appears to be necessary to do so. Applicants are required to aid the examiner by complying with the requirements for a concise explanation in section 1.98(a)(3) for information submitted in a non-English language." Notice of January 9, 1992, 1135 O.G. 13-25, at 21.*

NOTE: *"The examiner will indicate that the non-English language information has been considered in the same manner as consideration is indicated for information submitted in English." Notice of April 20, 1992 (1138 O.G. 37-41, 41).*

- [x] Submitted herewith is an English translation of the following foreign language patents, publications or information or of those portions of those patents, publications or information considered to be material:

**Reference WA is believed to be an abstract in the English language of Reference VZ.**

*(complete the following, if applicable)*

- [x] No English language translations of the foreign language patents, publications or information or parts thereof are readily available, except for those listed above.
- [ ] The following foreign language documents submitted are believed to be the equivalent or substantial equivalent of the English language documents identified below, which are also submitted herewith.

**Section 10. Identification of Person(s) Making This Information Disclosure Statement**

The person making this certification is

*(check each applicable item)*

- (a) ☐ the inventor(s) who signs below

\_\_\_\_\_  
**SIGNATURE OF INVENTOR**

\_\_\_\_\_  
*(type name of inventor who is signing)*

- (b) ☐ an individual associated with the filing and prosecution of this application (37 C.F.R. section 1.56(c))

\_\_\_\_\_  
**SIGNATURE OF INVENTOR**

\_\_\_\_\_  
*(type name of inventor who is signing)*

- (c) ☒ the practitioner who signs below on the basis of the information:

*(check each applicable item)*

☐ supplied by the inventor(s).

☐ supplied by an individual associated with the filing and prosecution of this application. (37 C.F.R. section 1.56(c)).

☒ in the practitioner's file.

\_\_\_\_\_  
*/Alexander J. Smolenski, Jr., Esq., #47,953/*

**SIGNATURE OF PRACTITIONER**

\_\_\_\_\_  
*Alexander J. Smolenski, Jr., Esq.*

*(type or print name of practitioner)*

\_\_\_\_\_  
*125 Summer Street, 11<sup>th</sup> Floor*

*P.O. Address*

\_\_\_\_\_  
*Boston, MA 02110-1618*

Reg. No.: 47,953

Tel. No.: (617) 443-9292

Customer No.: 002101

02960/00118 1227681.1